

Application No.: 10/762,931
Filing Date: January 21, 2004

REMARKS

Claims 1-28 are currently pending. Claims 19-28 are withdrawn without prejudice or disclaimer. Applicants reserve the right to pursue the subject matter of any of these withdrawn claims in one or more continuing applications. Claims 1 and 8-11 are currently amended. Support for each of the claim amendments can be found throughout the claims and specification as originally filed. For example, support for the amendment to independent claims 1 and 9 can be found in claim 9 as originally filed, in the specification at paragraph [0015], at paragraphs [0075] and [0076], at paragraphs [0079] to [0083], at paragraph [0094], at paragraphs [0097] to [0101] and elsewhere throughout the specification as filed. Amendments to dependent claims 8, 10 and 11 have been made in view of the amendments to claims 1 and 9 in order to preserve antecedent basis or maintain consistency. Applicants respectfully submit that none of the amendments to claims introduce new matter.

Rejection of claims 1-3, 7 and 8 under 35 U.S.C. § 102(b)

The Examiner rejects claims 1-3, 7 and 8 under 35 U.S.C. § 102(b) as allegedly anticipated by U.S. Patent No. 6,083,763 (Balch et al.). In particular, the Examiner asserts that Balch et al. disclose an analyzer comprising a microplate having wells, a light source, a CCD camera, a GUI and software for “providing automated filtering, thresholding, labeling, statistical analysis and quantitative graphical display of each well within seconds.” The Examiner then asserts that such combination discloses all of the elements of claims 1-3, 7 and 8.

Applicants respectfully submit that Balch et al. does not disclose all of the elements of any of claims 1-3, 7 or 8. Although independent claim 1 is currently amended, Applicants maintain that independent claim 1 as well as dependent claims 2, 3, 7 and 8 were not anticipated by Balch et al. prior to the instant amendments. In particular, Balch et al. does not disclose a program for registration of an image. However, Applicants have currently amended claim 1 to further define a an aspect of the chemical reaction monitor system that relates to checking for reaction failure. Applicants respectfully submit that Balch et al. does not disclose at least this aspect of the chemical reaction monitoring system set forth in claim 1.

In view of the foregoing remarks and amendments, Applicants request that the Examiner withdraw the rejection of claim 1-3, 7 and 8 under 35 U.S.C. § 102(b).

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Rejection of claims 4-6 and 9-19 under 35 U.S.C. § 102(a)

The Examiner rejects claims 4-6 and 9-19 under 35 U.S.C. § 103(a) as allegedly obvious over Balch et al. in view of U.S. Patent No. 5,674,698 (Zarling et al.); Balch et al. in view of U.S. Patent No. 5,639,603 (Dower et al.); the combination of Balch et al. and Dower et al. in further view of US Patent Application Publication No. 2003/0207441 (Eyster et al.); and the combination of Balch et al. and Dower et al. in further view of Zarling et al. In particular, the Examiner applies Balch et al. as in the rejection above but acknowledges that Balch et al. does not disclose an excitation source that is an LED. The Examiner asserts that Zarling et al. discloses such LED light sources and that it would have been obvious to apply them to the disclosure of Balch et al. because “Zarling et al. disclose that LEDs are convenient.” With respect to the combination of Balch et al. and Dower et al., the Examiner asserts that Dower et al. disclose “an automated apparatus for conducting synthesis reactions in a microplate wherein the apparatus comprises an aspirator for removing fluid from the wells of the microplate.” The Examiner further asserts that Dower et al. disclose a centrifuge for liquid removal and that it would have been obvious to apply a centrifuge to the apparatus allegedly disclosed by Balch et al. so that the “contents of the wells of the microplate can be separated prior to adding fluid to or removing fluid from the wells.” The Examiner also contends that Eyster et al. add a means for displaying a warning message to the system allegedly disclosed by the combination of Balch et al. and Dower et al. The Examiner asserts that the addition of such a means would be obvious for eliminating erroneous data.

Applicants do not agree that any of claims 4-6 or 9-19 are obvious in view of any combination of the above-cite references. Although independent claims 1 and 9 are currently amended, Applicants maintain that these claims, as well as claims dependent thereon, were not obvious in view of the above-cited art prior to the instant amendments. In particular, none of the above-cited references disclose registration of an image. However, Applicants have currently amended claim 1 to further define a an aspect of the chemical reaction monitor system that relates to checking for reaction failure. Applicants respectfully submit that Balch et al. does not disclosure at least this aspect of the chemical reaction monitoring system set forth in claim 1. None of the secondary references remedy this defect. Accordingly, no combination of the above-cited references renders any of claims 4-6 or 9-19 obvious.

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In view of the foregoing remarks and amendments, Applicants request that the Examiner withdraw the rejection of claims 4-6 and 9-19 under 35 U.S.C. § 103(a).

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, the Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. The Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that the Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

CONCLUSION

Applicants believe that all outstanding issues in this case have been resolved and that the present claims are in condition for allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is invited to contact the undersigned at the telephone number provided below in order to expedite the resolution of such issues.

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Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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